

Department of Land Conservation and Development

1175 COURT STREET NE, SALEM, OREGON 97310-0590 PHONE (503) 378-4926

November 20, 1987

TO: Local Governments, State and Federal Agencies,
Interested Parties

FROM: James F. Ross, Director

SUBJECT: NEWLY AMENDED RULES

Enclosed are the recently revised rules amended by the Land Conservation and Development Commission. These relate to plan and land use regulation amendment procedures, periodic review procedures, and exceptions.

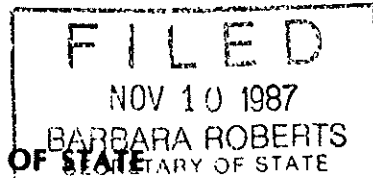
The plan amendment and periodic review rules incorporate changes adopted by the 1987 legislature (HB 2950 and SB 17) as well as other refinements. We believe these revised rules will improve the overall functioning of these legislatively mandated programs. The amendment to the exceptions rule clarifies that an exception to Goal 4 is not required for the siting of a mining operation.

If you have questions, concerns, or further suggestions for improvement, please contact the appropriate field representative or the Department's Salem office.

JFR:DB/sp
<pr>

Enclosure

CERTIFICATE AND ORDER
for
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE



I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Land Conservation and Development Commission on October 22, 1987 to become effective upon filing
(Agency) (Date)

The within matter having come before the Land Conservation and Development Commission after all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO ☐ YES ☒ Date Published: September 15, 1987

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM. ☒ or TEMP. ☐

Adopted:
(New Rules)

RECEIVED

NOV 12 1987

Amended:
(Existing Rules)

OAR 660-04-010(1) (b)

LEGISLATIVE COUNSEL'S
OFFICE

Suspended:
(Temporary Only)

Repealed:
(Existing Rules)

as Administrative Rules of the Land Conservation and Development Commission
(Agency)

DATED this 10th day of November, 19 87

By: Craig Greenleaf
Deputy
Title: Director
(Authorized Signer)

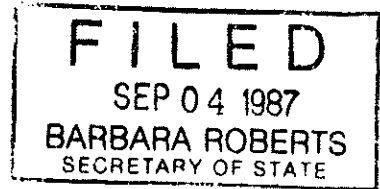
Statutory Authority: ORS Chapters 197 and 183, particularly ORS 197.040(1) (b) and 197.732.

Subject Matter: Clarifies Commission policy on allowing certain nonforest uses on forest lands without requiring an exception to Goal 4.

Statement of Need Attached: ☒

Fiscal Impact Attached: ☒

For Further Information Contact: Mike Rupp Phone: 373-0095



ADOPTION OF AMENDED RULE

OAR 660--DIVISION 4
"Interpretation of Goal 2 Exceptions Process"

Statement of Need

This administrative rule amendment is needed to clarify which nonforest uses and under what conditions such uses can be allowed on forestlands without an exception to Goal 4. Currently, OAR 660-04-010(1)(b) indicates that farm uses, as defined by ORS 215.203, are the only nonforest uses allowed under Goal 4 without taking an exception. (See Jensen v. Clatsop County, 14 Or LUBA 776 (1986). Without this amendment, every forest zone, acknowledged under ORS 197.251, would be in violation of OAR 660-04-010(1)(b).

Principal Documents Relied Upon

1. ORS Chapters 197, 183, and 215
2. OAR 660, Division 1, Procedural Rules including Model Rules of Procedures
3. Statewide Goal 4
4. OAR 660, Division 4, "Interpretation of Goal 2 Exception Process"
5. Jensen v. Clatsop County, 14 Or LUBA 776 (1986)

Fiscal Impact

Amendment of OAR 660-04-010(1)(b) will avoid a significant negative fiscal impact on Oregon counties with forest zones. Without this amendment, each county will be required to amend its forest zones at considerable expense. Until such amendments are made, a county will be required, again at considerable expense, to take an exception to Goal 4 and amend its comprehensive plan before the approval of any nonforest uses currently authorized under its acknowledged forest zones. The rule amendment will eliminate a conflict between acknowledged plans and existing case law and avoid future confusion and costly litigation.

RE:sp
<wp>660.04.statement.need

FILED

NOV 10 1987

BARA ROBERTS
CLERK OF STATE

OAR 660-04-010 AS AMENDED BY THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OCTOBER 22, 1987

Application of the Goal 2 Exception Process to Certain Goals

660-04-010(1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning". The exceptions process is generally applicable to all or part of those statewide goals which prescribe or restrict certain uses of resource land. These statewide goals include but are not limited to:

(a) Goal 3 "Agricultural Lands", however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses permitted in an exclusive farm use (EFU) zone under ORS Chapter 215.

(b) Goal 4 "Forest Lands", however, an exception to Goal 4 "Forest Lands" is not required for:

(A) farm uses allowed under ORS 215.203[.]; and

(B) the exploration, mining and primary processing of geothermal, natural gas, aggregate and other mineral resources provided these uses will not substantially interfere with the conservation of forest uses.

(c) Goal 14 "Urbanization" except as provided for in paragraphs (1)(c)(A) and (B) of this rule, and OAR 660-14-000 through 660-14-040.

(A) An exception is not required to an applicable goal(s) for the establishment of an urban growth boundary around or including portions of an incorporated city when resource lands

are included within that boundary. Adequate findings on the seven Goal 14 factors, accompanied by an explanation of how they were considered and applied during boundary establishment, provide the same information as required by the exceptions process findings.

(B) When a local government changes an established urban growth boundary it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning", Part II, Exceptions. An established urban growth boundary is one which has been acknowledged by the Commission under ORS 197.251. Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);

(ii) Areas which do not require a new exception cannot reasonably accommodate the use;

(iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

- (d) Goal 16 "Estuarine Resources";
- (e) Goal 17 "Coastal Shorelands"; and
- (f) Goal 18 "Beaches and Dunes".

(2) The exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards which do not prescribe or restrict certain uses of resource land because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these [G]goals, although not required, are possible and exceptions taken to these [G]goals will be reviewed when submitted by a local jurisdiction. These statewide goals are:

- (a) Goal 5 "Natural Resources";
- (b) Goal 6 "Air, Water, and Land Resources Quality";
- (c) Goal 7 "Natural Disasters and Hazards";
- (d) Goal 8 "Recreational Needs";
- (e) Goal 9 "Economy of the State";
- (f) Goal 10 "Housing" except as provided for in section (4) of this rule;
- (g) Goal 11 "Public Facilities and Services", except as provided for in OAR 660, Division 14 for the provision of urban facilities and services to the incorporation of new cities or new urban development;
- (h) Goal 12 "Transportation";
- (i) Goal 13 "Energy Conservation";
- (j) Goal 15 "Willamette Greenway" except as provided for in OAR 660-04-022(4); and

(k) Goal 19 "Ocean Resources".

(3) An exception to one goal or goal requirement does not assure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken.

(4) Goal 10: The exception procedural requirements apply when a local government cannot provide for needed housing pursuant to ORS 197.303 through 197.307, OAR 660-07-000 and 660-08-000. A local government may satisfy the substantive standards for exceptions upon a demonstration in the local housing needs projection that:

(a) The needed housing type is being provided for elsewhere in the region in sufficient numbers to meet regional need[.];

(b) Sufficient buildable land has been allocated within the local jurisdiction for other types of housing which can meet the need for shelter at the particular price ranges and rent levels that would have been met by the excluded housing type; and

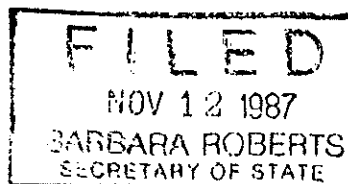
(c) The decision to substitute other housing types for the excluded needed housing type furthers the policies and objectives of the local comprehensive plan, and has been coordinated with other affected units of government.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983,
f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84;
LCDC 3-1984, f. & ef. 3-21-84

RE:tmc
<legal>660-04-010.amdt

CERTIFICATE AND ORDER
for
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE



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all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO ☐ YES ☒ Date Published: September 15, 1987

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM. ☒ or TEMP. ☐

Adopted:
(New Rules)

OAR 660-18-021

RECEIVED

NOV 12 1987

Amended:
(Existing Rules)

OAR 660-18-010 renumbered and amended

LEGISLATIVE COUNSEL'S
OFFICE

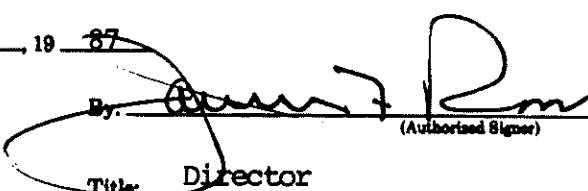
OAR 660-18-020; 040; 050; 055; 060 and 085

Suspended:
(Temporary Only)

Repealed:
(Existing Rules)

as Administrative Rules of the Land Conservation and Development Commission
(Agency)

DATED this 12th day of November, 19 87

By: 

(Authorized Signer)

Title: Director

Statutory Authority: ORS Chapters 197 and 183, particularly ORS 197.040(1)(b) and 197.610 to .625.

Subject Matter: Implements provisions of Section 6, Chapter 729, Oregon Laws 1987 (HB 2950)
regarding amendments to comprehensive plans and land use regulations.

Statement of Need Attached: ☒

Fiscal Impact Attached: ☒

For Further Information Contact: Dale Blanton

Phone: 373-0089

ADOPTION OF AMENDED RULE

OAR 660, DIVISION 18
"PLAN AND LAND USE REGULATION AMENDMENT REVIEW RULE"

Statement of Need

The purpose of these rule amendments is to make the Commission's rule regarding its review of plan and land use regulation amendments consistent with the provisions of ORS 197.625 as amended by Section 6, Chapter 729, Oregon Laws 1987 (HB 2950).

Principal Documents Relied Upon

1. ORS Chapters 197 and 183
2. OAR 660, Division 1, Procedural Rules including Oregon's Model Rules of Procedures
3. OAR 660, Division 18 "Plan and Land Use Regulation Amendment Review Rule"
4. Chapter 729, Oregon Laws 1987 (HB 2950).

Fiscal Impact

These rule amendments are required by the changes made to ORS 197.625 by the 1987 Legislature. The amendments clarify some of the requirements regarding the Commission's review of amendments to plan and land use regulations. Such amendments will expedite the review process, avoid confusion, costly litigation and time delays. These rule amendments will have no negative fiscal impact on state agencies or local governments.

RE:sp

<oar>660.18.statement.need

DIVISION 18
PLAN AND LAND USE REGULATION
AMENDMENT REVIEW RULE

Purpose

660-18-005 This administrative rule is intended to implement provisions of ORS 197.610 through 197.625. The overall purpose is to carry out the state policy outlined in ORS 197.010.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983,
f. & ef. 12-29-83

Definitions

660-18-010 For the purpose of this rule, the definitions contained in ORS 197.015 shall apply. In addition, the following definitions apply:

(1) "Acknowledgment" means a Commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals.

(2) "Commission" means the Land Conservation and Development Commission.

(3) "Comprehensive Plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including, but not limited to, sewer and water systems, transportation

systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General Nature" means a summary of the policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity, or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies, and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(4) "Computation of time" means unless otherwise provided in this rule, the time within which an act is to be done is computed by excluding the first day and including the last unless the last day falls upon any legal holiday or on Saturday, in which case the last day is also excluded.

(5) "Department" means the Department of Land Conservation and Development.

(6) "Director" means the Director of the Department of Land Conservation and Development or the designee thereof.

(7) "Filing" or "Submitted" shall mean that the required documents have been received by the Department of Land Conservation and Development at its Salem, Oregon office.

(8) "Final Decision" as described in OAR 660-18-040 and 660-18-050 shall be the approval or approval as modified, by the

local government, of a proposed amendment to or adoption of a comprehensive plan or land use regulation. A denial of a proposed amendment by the local government shall not be considered a "Final Decision" and therefore is not subject to review under this administrative rule. The date of the "Final Decision" as described in OAR 660-18-040 shall be the date on which the local government takes final action on the amendment to or adoption of a comprehensive plan or land use regulation. In order to be deemed final, the local government action must include the adoption of all supplementary findings and data. In addition, the date of final action shall be the day following exhaustion of all appeal rights before local government.

(9) "Final Hearing on Adoption" as described in OAR 660-18-020 and 660-18-030 shall be the last hearing where all interested persons are allowed to present evidence and rebut testimony on the proposal to adopt or amend a comprehensive plan or land use regulation. "Final Hearing on Adoption" shall not include a hearing held solely on the record of a previous hearing held by the governing body or its designated hearing body. If a final hearing on adoption is continued or delayed, following proper procedures, the local government is not required to submit a new notice under OAR 660-18-020.

(10) "Goals" mean the mandatory state-wide planning standards adopted by the Commission pursuant to ORS 197.005 to 197.430 and 197.610 to 197.650.

(11) "Land use regulation" means any local government zoning

ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan. "Land use regulation" does not include small tract zoning map amendments, conditional use permits, individual subdivision, partitioning or planned unit development approvals or denials, annexations, variances, building permits and similar administrative-type decisions.

(12) "Local government" means any city, county or metropolitan service district formed under ORS Chapter 268 or as association of local governments performing land use planning functions under ORS 197.190.

(13) "Map Change" as used in OAR 660-18-020 means a change in the designation of an area as shown on the comprehensive plan map, zoning map or both.

(14) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land use regulations acknowledged under ORS 197.251.

(15) "Substantially Amended" as used in OAR 660-18-045 shall mean any change in text which differs from the proposal submitted under OAR 660-18-020 to such a degree that the notice under OAR 660-18-020 did not reasonably describe the nature of the local government final action.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef
12-29-83

Filing of a Proposed Amendment to or Adoption of a Comprehensive Plan or Land Use Regulation with the Director

660-18-020 (1) A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new land use regulation shall be submitted to the Director at least 45 days before the final hearing on adoption. The proposal submitted shall be accompanied by appropriate forms provided by the Department and shall contain three copies of the text and any supplemental information the local government believes is necessary to inform the Director as to the effect of the proposal. The submittal shall indicate the date of the final hearing on adoption. In the case of a map change, the proposal must include a map showing the area to be changed as well as the existing and proposed designations. Wherever possible, this map should be on 8-1/2 by 11-inch paper; where a goal exception is being proposed, the submittal must include the proposed language of the exception. The Commission urges the local government to submit information that explains the relationship of the proposal to the acknowledged plan and the goals, where applicable.

(2) For purposes of this rule, "text" means the specific language being proposed as an addition to or deletion from the acknowledged plan or land use regulations. For purposes of this rule, "text" does not mean a general description of the proposal or its purpose. In the case of map changes "text" does not mean a legal description, tax account number, address or other similar general description.

Stat. Auth.: ORS Ch. 183 & 197
Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef
12-29-83

Submittal of Joint Amendments

660-18-021 Where two or more local governments are required by plan provisions or statewide goals to jointly consider or agree on a comprehensive plan or land use regulation amendment, the local governments shall jointly submit the proposed amendment and adopted action. Notice of jointly proposed amendments shall be provided 45 days prior to the earliest schedule final hearing. For purposes of notice and appeal, the date of the final decision shall be the date of the last local government's adoption.

Stat. Auth.: ORS Ch.183 & 197, Statewide Planning Goals
Hist:

Exemptions to Filing Requirements Under OAR 660-18-020

660-18-022 (1) A local government is not required to submit a proposed amendment to the Director under OAR 660-18-020 when the local government determines that the goals do not apply to a particular proposed amendment or new regulation.

(2) A local government may provide less than 45 days notice as required in OAR 660-18-020 when the local government determines there are emergency circumstances requiring expedited review.

Stat. Auth.: ORS Ch. 197
Hist: LCDC 12-1983, f. & ef. 12-29-83

Notice of Proposed Amendment to or Adoption of a Comprehensive Plan or Land Use Regulation Sent to Those Requesting

660-18-025 Persons requesting notice of proposed amendments to acknowledged comprehensive plans or land use regulations or adoptions of new land use regulations who have paid the fee established under the provisions of OAR 660-18-140 shall be mailed a notice by the Department of the proposed action within 15 days of the receipt of notice from local government required by OAR 660-18-020.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef. 12-29-83

Report to Commission

660-18-030 The Director shall report the Department position on proposed comprehensive plan or land use regulation adoption or amendments to the Commission at least 20 days prior to the final hearing on adoption. This report shall indicate whether the Department will participate in local government proceedings and whether the Director believes the proposal violates the goals.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef. 12-29-83

Department Participation

660-18-035 If the Department is participating in a local government proceeding for which notice was received under OAR 660-18-020, the Department shall notify the local government. The Department notification shall occur at least 15 days prior to the final hearing on adoption as specified in notice received

under OAR 660-18-020 and shall indicate any concerns with the proposal and recommendations considered necessary to address the concerns including, but not limited to, suggested corrections to achieve compliance with the goals.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef 12-29-83

Submittal of Adopted Material

660-18-040 (1) Amendments to acknowledged comprehensive plans or land use regulations, new land use regulations adopted by local government and findings to support the adoption shall be mailed or otherwise submitted to the Director within five working days after the final decision by the governing body and shall be accompanied by appropriate forms provided by the Department. Local government must notify the Department of withdrawals or denials of proposals previously sent to the Department under requirements of OAR 660-18-020. Notwithstanding the above requirements, adopted amendments which are part of periodic review shall be submitted within twenty (20) days after the final decision as provided in ORS 197.641 and OAR 660-19-070. The date of the "Final Decision" as described in this rule shall be the date on which the local government takes final action on the amendment to or adoption of a comprehensive plan or land use regulation and must include the adoption of all supplementary findings and data. In addition, the date of final action shall be the day following exhaustion of all appeal rights before the

local government.

(2) The local government shall clearly indicate in its transmittal which provisions of OAR 660-18-022 are applicable where the adopted amendment was not submitted for review 45 days prior to the final hearing on adoption.

(NOTE: ORS 197.610 clearly requires all adopted plan and land use regulation amendments and new land use regulations to be submitted to the Director even though they were not required to be submitted for review prior to adoption.)

(3) Where amendments, including supplementary materials exceed 100 pages, a summary of the amendment briefly describing its purpose and requirements shall be submitted to the Director.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef. 12-29-83

Changes in Proposals

660-18-045 If comprehensive plan or land use regulation amendments or new land use regulations which are adopted by local governments have been substantially amended the local government shall specify the changes that have been made in the notice to the Director provided in OAR 660-18-040.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef. 12-29-83

Notice to Other Parties

660-18-050 In addition to notice requirements in

OAR 660-18-040, within five working days of the final decision by the governing body, local government shall send notice of the action to persons who participated in the proceedings leading to adoption and requested notice in writing. Notwithstanding the above requirements, adopted amendments which are part of periodic review shall be sent within 20 days after the final decision as provided in ORS 197.641 and OAR 660-19-070. The notice required by these rules shall describe the action, state the date of the decision, indicate the time and place where the acknowledged comprehensive plan or land use regulation amendment or new land use regulation and findings can be reviewed. In addition, the notice shall indicate the requirements for appealing the local government action to the Land Use Board of Appeals.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef. 12-29-83

Notice of Local Government Action by the Director

660-18-055 Within five working days of the receipt of notice under OAR 660-18-040, the Director shall provide notice by mail or other submittal to those who have requested notice under OAR 660-18-055 and have paid the fee established under the provisions of OAR 660-18-140. This notice shall explain the requirements for appealing the local government action to the Land Use Board of Appeals and indicate the locations where the adopted documents may be reviewed.

Stat. Auth.: ORS Ch. 183 & 197
Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. &
ef. 12-29-83

Who May Appeal

660-18-060 (1) Persons who participated either orally or in writing in the local government proceedings leading to adoption of an amendment to an acknowledged comprehensive plan or land use regulation or a new land use regulation may appeal the decision to the Land Use Board of Appeals under ORS 197.830 to 197.845.

(2) The Director or any other person may file an appeal of the local government's decision to the Land Use Board of Appeals under ORS 197.830 to 197.845 if an amendment to a comprehensive plan or land use regulation or a new land use regulation differs from the proposal and notice submitted under OAR 660-18-020 to such a degree that the notice did not reasonably describe the nature of the local government final action.

(3) The Director or any person may appeal a local government decision to adopt an amendment to an acknowledged comprehensive plan or land use regulation or a new land use regulation to the Land Use Board of Appeals under ORS 197.830 to 197.845 when the local government does not provide the notice required by OAR 660-18-020 under exemptions contained in OAR 660-18-022.

(4) A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed with the Land Use Board of Appeals not later than 21 days after the decision sought to be reviewed is

mailed to parties entitled to notice under OAR 660-18-040 and 660-18-050.

(NOTE: A decision not to adopt a legislative amendment or new land use regulation is not appealable.)

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef. 12-29-83

Objections by Non-Participating Parties

660-18-065 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by LCDC 12-1983, f. & ef. 12-29-83]

Appeal by Director

660-18-070 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by LCDC 12-1983, f. & ef. 12-29-83]

Appeal of Local Government Action Where Adopted Provision Differs from a Proposed Provision

660-18-075 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by LCDC 12-1983, f. & ef. 12-29-83]

Dismissal of Appeal or Objection Where the Action is Consistent with the Acknowledged Plan

660-18-080 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by LCDC 12-1983, f. & ef. 12-29-83]

Action Where No Appeal or Objection is Timely Filed

660-18-085 Upon receipt of an affidavit from the Land Use Board of Appeals (LUBA) certifying that no timely appeal has been filed or that a local decision has been affirmed, the Director shall certify that an action taken subject to this rule is

acknowledged. If LUBA sustains a local government action, or no appeal is timely filed, a local action under this Division is considered acknowledged. However, after issuance of the periodic review notice outlined in the Department's notification procedures (e.g., ORS 197.647(4)(6)), nothing in this rule shall prevent the Commission from entering an order pursuant to its statutory power to require a local government to respond to the standards of the legislature's periodic review facts and procedures (ORS 197.640(3) and (4)).

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983, f. & ef. 12-29-83

Notice Where an Appeal or Objection is Timely Filed

660-18-090 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by LCDC 12-1983, f. & ef. 12-29-83]

Submittal of the Record

660-18-095 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by LCDC 12-1983, f. & ef. 12-29-83]

Form and Content of the Record

660-18-100 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by LCDC 12-1983, f. & ef. 12-29-83]

Notice to Objectors

660-18-105 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by LCDC 12-1983, f. & ef. 12-29-83]

Referral to the Commission

660-18-110 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
LCDC 12-1983, f. & ef. 12-29-83]

Director's Report

660-18-115 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
LCDC 12-1983, f. & ef. 12-29-83]

Exceptions

660-18-120 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
LCDC 12-1983, f. & ef. 12-29-83]

Commission Hearing

660-18-125 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
LCDC 12-1983, f. & ef. 12-29-83]

Commission Review and Final Order

660-18-[0]130 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
LCDC 12-1983, f. & ef. 12-29-83]

Director Communication with the Commission

660-18-132 [LCDC 4-1983 (Temp), f. & ef. 6-23-83; LCDC
7-1983, f. & ef. 7-20-83; Repealed by LCDC
12-1983, f. & ef. 12-29-83]

Disposition of Deposit

660-18-135 [LCDC 14-1981, f. & ef. 12-15-81; Repealed by
LCDC 12-1983, f. & ef. 12-29-83]

Fee for Notice

660-18-140 (1) An annual fee of \$50 to defray the costs of
notice provided under OAR 660-18-025 is established. The fee
shall be assessed for each fiscal year, or fraction thereof,

commencing July 1, 1982. The fee is payable in advance of any notice being provided under OAR 660-18-025. For each subsequent fiscal year, the Department shall bill persons requesting such notice the annual fee each July. Persons failing to remit the fee within 30 days of the date of the invoice shall be deemed as having terminated the request for notice provided under OAR 660-18-025.

(2) An annual fee of \$150 to defray the costs of notice provided under OAR 660-18-055 is established. The fee shall be assessed for each fiscal year, or fraction thereof, commencing July 1, 1982. The fee is payable in advance of any notice being provided under OAR 660-18-055. For each subsequent fiscal year, the Department shall bill persons requesting such notice the annual fee each July. Persons failing to remit the fee within 30 days of the date of the invoice shall be deemed as having terminated the request for notice provided under OAR 660-18-055.

Stat. Auth.: ORS Ch. 183 & 197

Hist: LCDC 14-1981, f. & ef. 12-15-81; LCDC 12-1983,
f. & ef. 12-29-83

DB/sh
<OAR>660-18

FILED
NOV 12 1987
BARBARA RODERTS
SECRETARY OF STATE

CERTIFICATE AND ORDER
for
FILING ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of rule(s) adopted by the Land Conservation and Development Commission on October 22, 1987 to become effective upon filing.
(Agency) (Date)

The within matter having come before the Land Conservation and Development Commission after
(Agency)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in OAR Bulletin: NO ☐ YES ☒ Date Published: September 15, 1987

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken:
(List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

PERM. ☒ or TEMP. ☐

Adopted:
(New Rules)

OAR 660-19-057 and 097

Amended:
(Existing Rules)

OAR 660-19-005 renumbered and amended

OAR 660-19-045 through 095

Suspended:
(Temporary Only)

RECEIVED
NOV 12 1987

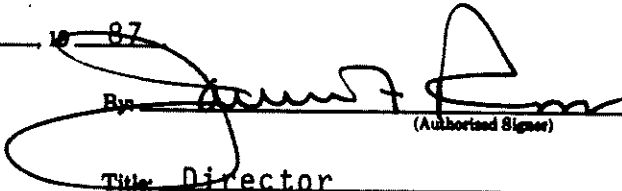
LEGISLATIVE COUNSEL'S
OFFICE

Repealed:
(Existing Rules)

OAR 660-19-110

as Administrative Rules of the Land Conservation and Development Commission
(Agency)

DATED this 12th day of November 1987

By 

(Authorized Signer)

Title: Director

Statutory Authority: ORS Chapters 197 and 183, particularly ORS 197.040(1)(b) and ORS 197.640 to .649.

Subject Matter: Implements provisions of sections 7, to 10, Chapter 729, Oregon Law 1987 (HB 2950) and Chapter 69, Oregon Laws 1987 (SB 17) relating to periodic review.

Statement of Need Attached: ☒

Fiscal Impact Attached: ☒

For Further Information Contact: Dale Blanton

Phone: 373-0089

ADOPTION OF AMENDED RULE

OAR 660, DIVISION 19
"PERIODIC REVIEW"

FILED
SEP 04 1987
BARBARA ROBERTS
SECRETARY OF STATE

Statement of Need

The purpose of these rule amendments is to make the Commission's rule regarding periodic review consistent with the provisions of ORS 197.640 to .649 as amended by Sections 7 to 10, Chapter 729, Oregon Laws 1987 (HB 2950) and Chapter 69, Oregon Laws 1987 (SB 17).

Principal Documents Relied Upon

1. ORS Chapters 197 and 183
2. OAR 660, Division 1, Procedural Rules including Oregon's Model Rules of Procedure
3. OAR 660, Division 19 "Periodic Review"
4. Chapters 69 and 729, Oregon Laws 1987

Fiscal Impact

These rule amendments are required by the changes made to ORS 197.640 to .649 by the 1987 Legislature. The statutory and rule changes extend the time before which local governments must begin the periodic review of their comprehensive plans and land use regulations, require a simplified and expedited review process for small jurisdictions and coordinate the existing provisions of periodic review with the Commission's plan amendment review responsibilities. These amendments will expedite the review process and reduce costs to small jurisdictions. The rule amendments will have no negative fiscal impact on state agencies or local governments.

RE:sp
<oar>660.19.statement.need

DIVISION 19
PERIODIC REVIEW
(10-22-87)

Purpose

660-19-000 The overall purpose of this division is to carry out the state policy outlined in ORS 197.010. This division is intended to implement provisions of ORS 197.640 through 197.649. The purpose for the Commission's periodic review of each local government's comprehensive plan and land use regulations is to insure that they are in compliance with the Statewide Planning Goals and are coordinated with the plans and programs of state agencies.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 9-1982, f. & ef. 10-20-82; LCDC 7-1984, f. & ef. 11-30-84

Definitions

660-19-005 For the purposes of this division, the definitions contained in ORS 197.015 and the following definitions, shall apply:

(1) "Acknowledgment" means a Commission order that certifies that a comprehensive plan and land use regulations or plan or regulation amendment complies with the goals.

(2) "Commission" means the State Land Conservation and Development Commission.

(3) "Commission Review Order" as described in

OAR 660-19-090 is an order issued by the Commission adopting findings for each periodic review factor which:

(a) Supports the local government's determination in its final local review order that the factor does not apply; or

(b) Supports the local government's determination in its final local review order that the factor does apply, that any amendments to the plan or land use regulation satisfy the applicable factor and that the plan and land use regulations remain in compliance with the Statewide Goals and coordinated with the state agency plans and programs; or

(c) Does not support the local government's final local review order's findings and conclusions on the factor and requires that the plan or land use regulations be amended to satisfy the applicable factor to remain in compliance with the Statewide Goals and coordinated with state agency plans and programs.

(4) "Department" means the Department of Land Conservation and Development as defined in ORS 197.015.

(5) "Director" means the Director of the Department of Land Conservation and Development.

(6) "Director Termination Order" as described in OAR 660-19-085 is an order issued by the Director finding that the local government's final local review order has adequately addressed the periodic review factors and the Director has determined the following for each factor:

(a) The factor does not apply; or

(b) The factor applies, and the adopted amendment of the local government's plan or land use regulation satisfies the applicable factor.

(7) "Filed" or "Submitted" means that the required documents have been received by the Department of Land Conservation and Development at its Salem, Oregon, office.

(8) "Final Decision" as described in OAR 660-19-070 and 660-19-080 means the approval as modified, by the local government, of its final local periodic review order, including supporting findings and any amendments to the comprehensive plan or land use regulations. A "Final Decision" occurs when the local government's decision has been reduced to writing bearing the signatures of the governing body or its designee. The date of the "Final Decision" shall be the day following exhaustion of all appeal rights before the local government.

(9) "Final Hearing on Adoption" as described in OAR 660-19-060, 660-19-065 and 660-19-070 means the last hearing where all interested persons are allowed to present evidence and rebut testimony on the local government's proposed review order, including the proposed adoption of supporting findings and any amendments to the comprehensive plan or land use regulations. "Final Hearing" shall not include a hearing held solely on the record of a previous hearing held by the governing body or its designated hearing body.

(10) "Final Local Review Order" as described in OAR 660-19-070, 660-19-075, 660-19-080, 660-19-085, and

660-19-090 is the local government's final determination on the applicability of each of the periodic review factors, including adopted findings and any adopted amendments to the plan and land use regulations.

(11) "Goals" means the mandatory statewide planning standards adopted by the Commission pursuant to ORS 197.005 to 197.850.

(12) "Implementation Actions" as described in OAR 660-19-055 refers to land use actions taken by the local government to implement and administer the comprehensive plan and land use regulations and which do not require the adoption of an amendment to the plan or land use regulations.

(13) "Land Use Regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan. "Land Use Regulation" does not include small tract zoning map amendments, conditional use permits, individual subdivision, partitioning or planned unit development approvals or denials, annexations, variances, building permits and similar administrative-type decisions.

(14) "Local Government" means any city, county, or metropolitan service district formed under ORS Chapter 268 or an association of local governments performing land use planning functions under ORS 197.190.

(15) "New Land Use Regulation" means a land use regulation other than an amendment to an acknowledged land use regulation

adopted by a local government that already has a comprehensive plan and land use regulations acknowledged under ORS 197.251.

(16) "Periodic Review Factors" as described in OAR 660-19-055 and 660-19-057 are the four standards from ORS 197.640(3) utilized by local government and other persons to determine if the local plan and land use regulations remain in compliance with the goals and coordinated with state agency plans and programs.

(17) "Periodic Review Notice" as described in OAR 660-19-050 is the notice sent by the Director to each local government which informs the jurisdiction of its obligation to conduct periodic review, the date for submittal of its proposed review order, and the items to be addressed under the periodic review factors.

(18) "Periodic Review Schedule" as described in OAR 660-19-045 and 660-19-050 is an overall schedule approved by the Commission listing the date when each local government shall submit its proposed local review order to the Department.

(19) "Plan or Program Mandated by State Statute or Federal Law" as described in OAR 660-19-055 means a plan or program relating to land use which a state agency is required by state statute or federal law to adopt or carry out. The statute or law mandating a plan or program may be specific or general in its terms and the alternatives available to the agency under the statute or law to pursue the plan or program may be narrowly or broadly stated.

(20) "Proposed Local Review Order" as described in

OAR 660-19-060 and 660-19-065 is a draft order, findings, and any suggested plan and land use regulation amendments prepared by local government based upon its preliminary determination of the applicability of each of the periodic review factors.

(21) "Substantially Amended" as used in OAR 660-19-080 means any change in text which differs from the proposal submitted under OAR 660-19-060 and 660-19-065 and which did not reasonably describe the local government's final decision.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 9-1982, f. & ef. 10-20-82; LCDC 7-1984, f. & ef. 11-30-84

660-19-010 [Renumbered to 660-19-060]

Review Criteria for Commission Periodic Review

660-19-015 [LCDC 9-1982, f. & ef. 10-20-82; Repealed by LCDC 7-1984, f. & ef. 11-30-84]

Notice of Commission Periodic Review

660-19-020 [LCDC 9-1982, f. & ef. 10-20-82;
Repealed by LCDC 7-1984, f. & ef. 11-30-84]

Comments and Objections

660-19-025 [LCDC 9-1982, f. & ef. 10-20-82;
Repealed by LCDC 7-1984, f. & ef. 11-30-84]

Director's Report

660-19-030 [LCDC 9-1982, f. & ef. 10-20-82;
Repealed by LCDC 7-1984, f. & ef. 11-30-84]

Exceptions to the Director's Report

660-19-035 [LCDC 9-1982, f. & ef. 10-20-82;
Repealed by LCDC 7-1984, f. & ef. 11-30-84]

Commission Periodic Review Order

660-19-040 [LCDC 9-1982, f. & ef. 10-20-82;

Repealed by LCDC 7-1984, f. & ef. 11-30-84]

Periodic Review Schedule

660-19-045 (1) The Director shall prepare for Commission approval an overall schedule which lists the date when each local government's proposed review order is to be submitted to the Director. The schedule shall be developed in consultation with the affected local governments and state agencies.

(2) The review schedule shall provide, unless requested at an earlier date by local government, that:

(a) No comprehensive plan and land use regulations shall be reviewed sooner than two years after the plan and regulations are acknowledged under ORS 197.251;

(b) The first periodic review shall be two to five years after acknowledgment;

(c) All subsequent reviews shall be four to seven years after completion of the previous review;

(d) To the maximum extent practical, by the second periodic review cycle, the schedule shall provide for reviews to be conducted on a common geographic basis, and when possible, in accordance with the update dates in local plans; and

(e) The Department and Commission may conduct segmented periodic review for joint planning areas such as areas within urban growth boundaries, estuarine and shorelands areas or in other circumstances where planning issues warrant such segmented

reviews.

(3) The Director may modify the schedule based on written requests from local governments and state agencies or where revised proposed orders are received from local governments. The Director may grant a schedule change where satisfactory progress is being made toward completion of periodic review and that additional time will further the public interest.

(4) The Director may deny a schedule or final hearing extension where such extension is not based on evidence of extenuating circumstances at the local government level.

(5) The Director may condition the extension by requiring completion of specific tasks or projects related to the periodic review. The Director may also require a work program for completion of periodic review prior to granting an extension or schedule change. The Director may specify the contents of such a work program. Failure to meet dates identified in the work program is the equivalent of failure to meet the schedule date or hearing date and may result in enforcement action under ORS 197.320(h).

(6) The Director's action on schedule modifications or hearing extensions may be appealed to the Commission by filing a letter of appeal with the Department within thirty (30) days of the Director action. The Commission shall allow testimony on the appeal from the appellant and the local government. A recommendation will be made by the Department. The Commission may affirm, reverse or modify the Director's decision based on

evidence presented and whether the Director's decision furthers the overall purpose of periodic review and statutory scheduling guidelines. The Commission's decision shall be in the form of an order issued by the Director.

(7) The Director shall mail the schedule to each local government and affected state agency and provide copies to other persons upon request. The Director shall ensure the timely distribution and availability of the periodic review schedule to provide maximum notice of when periodic reviews will occur. The Department shall incorporate schedule revisions authorized by OAR 660-19-045 as they are made. The Department will mail the revised schedule to local governments, affected agencies and those who request copies annually.

Stat. Auth.: ORS Ch. 197
Hist.: LCDC 7-1984, f. & ef. 11-30-84

Periodic Review Notice

660-19-050 (1) Not later than 180 days before the date established by the Commission in the periodic review schedule explained in OAR 660-19-045, the Director shall prepare and send to each local government its periodic review notice. The purpose of this notice is to inform each local government of its responsibility to conduct a periodic review of its comprehensive plan and land use regulations.

(2) The periodic review notice sent to each local government shall contain the following information:

(a) A description or copies of the required items to be

addressed by the jurisdiction as listed in OAR 660-19-055(2) and OAR 660-19-057;

(b) A copy of the Periodic Review Administrative Rule (OAR Chapter 660, Division 19);

(c) The date the proposed review order must be submitted; and

(d) Sample formats, examples of local findings and orders, or other technical materials produced by the Director to aid local governments.

(3) The Director shall provide copies of the periodic review notices to interested persons upon written request. Such request shall specify what local government notices are desired.

Stat. Auth.: ORS Ch. 197
Hist.: LCDC 7-1984, f. & ef. 11-30-84

Periodic Review Factors

660-19-055 (1) Each local government, pursuant to ORS 197.640(3) and the periodic review notice issued under OAR 660-19-050(1) and (2), shall adopt a periodic review order that contains findings stating whether any of the four periodic review factors apply. Based on its periodic review order, the local government must take steps necessary to bring the local plan and land use regulations into compliance with the goals and make them consistent with state agency plans and programs.

(2) The four factors cited in ORS 197.640(3)(a)-(d) are as follows:

(a) There has been a substantial change in circumstances,

including, but not limited to, the conditions, findings, or assumptions upon which the comprehensive plan or land use regulations were based, so that the comprehensive plan or land use regulations do not comply with the goals;

(b) Previously acknowledged provisions of the comprehensive plan or land use regulations do not comply with the goals because of goals subsequently adopted or statewide land use policies adopted as rules interpreting goals under ORS 197.040;

(c) The comprehensive plan or land use regulations are inconsistent with a state agency plan or program relating to land use that was not in effect at the time the local government's comprehensive plan was acknowledged, and the agency has demonstrated that the plan or program:

(A) Is mandated by state statute or federal law;

(B) Is consistent with the goals; and

(C) Has objectives that cannot be achieved in a manner consistent with the comprehensive plan or land use regulations; or

(d) The city or county has not performed additional planning that:

(A) Was required in the comprehensive plan or land use regulations at the time of initial acknowledgment or that was agreed to by the city or county in the receipt of state grant funds for review and update; and

(B) Is necessary to make the comprehensive plan or land use regulations comply with the goals.

Stat. Auth.: ORS Ch. 197
Hist.: LCDC 7-1984, f. & ef. 11-30-84

Substantial Change in Circumstances

660-19-057 (1) To determine whether a "substantial change in circumstances" exists, each local government's periodic review order must contain findings on the following:

(a) Major developments or events which have occurred that the acknowledged plan did not assume or anticipate or major developments or events which have not occurred that the acknowledged plan did assume or anticipate. Local periodic review findings must describe any occurrences such as the construction of or decisions not build a large project like a major reservoir, a regional shopping center, a major energy or transportation facility; a significant change in the local government's natural resources or economic base; significant unexpected population growth; significant consecutive decline in population growth; significant consecutive decline in population growth rate; failure or inability to provide public facilities and services in accordances with the plan, etc.

(b) Cumulative effects resulting from plan and land use regulation amendments and implementation actions on the acknowledged plan's factual base, map designations, and policies which relate to statewide goal requirements:

(A) For local governments responsible for plans inside urban growth boundaries, periodic review findings must describe the cumulative effects of plan and land use regulation amendments

and implementation actions on the overall urban land supply for the plan's chosen (usually 20 years) time frame; on the amount of vacant buildable land remaining for needed housing and economic development; on the provision of public facilities and services to meet development needs identified in the plan; on the protection of Willamette Greenway values and resources; on the amount of vacant especially suited, water-dependent coastal shoreland areas; and on other specific Statewide Planning Goal matters that the Director includes on the local government's periodic review notice.

(B) For local governments responsible for plans outside urban growth boundaries, periodic review findings must describe the cumulative effects of plan and land use regulation amendments, including goal exceptions. Findings must assess the cumulative effects of implementation actions on the protection of agricultural and forestry lands; on the protection of Goal 5 and Willamette Greenway resources; on the protection of coastal resources including dredge material disposal and estuarine mitigation sites; on significant increases in densities in rural residential exception areas; and on other specific Statewide Planning Goal matters raised in the periodic review process.

(c) Oversight or a decision by the local government to delay or not carry out plan policies which relate to a statewide goal requirement. Local periodic review findings must describe why, for example, policies in the plan requiring a citizen involvement program evaluation, a revised inventory of natural

hazards, or a date-specific, overall revision of the plan, etc., have not been completed.

(d) Incorporation into the plan of new inventory material which relates to a statewide goal made available to the jurisdiction after acknowledgment. Local periodic review findings must list what applicable published state or federal reports have been made available to the jurisdiction after acknowledgment containing new inventory material, for example, on groundwater availability, air quality, big game habitat, census information, soil surveys, natural hazards, etc., and describe what steps, including any amendments to the plan's factual base, policies, map designations and land use regulations, have been taken in response to this information.

(e) Consistency of the plan and land use regulations with new or amended statutes adopted since acknowledgment. Local periodic review findings must address new statutes adopted since initial acknowledgment and explain how the plan and land use regulations continue to meet the statutory requirements.

(2) Nothing in subsections (1)(a)-(e) of this rule is meant to limit or prevent any person from raising other issues or objections involving the "substantial change in circumstances" factor set forth in OAR 660-19-057 as long as such concerns are submitted consistent with the requirements of OAR 660-19-080.

Stat. Auth.: ORS Ch. 197
Hist.: LCDC 7-1984, f. & ef. 11-30-84

Local Periodic Review

660-19-060 (1) The local government shall conduct a review of its plan and land use regulations based on the periodic review factors, including those items identified in its periodic review notice issued pursuant to OAR 660-19-050.

(2) Following receipt of the periodic review notice, the local government shall, as appropriate, undertake technical studies, analyses, and surveys in reaching its preliminary decisions about the applicability of the periodic review factors under OAR 660-19-055, the preparation of its periodic review findings and the need, if any, for plan or land use regulation amendments. The local government may contact the Director and other affected state agencies for assistance and information in undertaking the tasks in this section.

(3) The local government shall use its Commission-approved citizen involvement program to provide adequate participation opportunities for citizens and other interested persons in all phases of the local periodic review. Each local government shall also issue a specific public notice consistent with the local citizen involvement program informing citizens in the community and other persons requesting such notice in writing about the initiation of the local periodic review.

(4) On or before the date set by the Commission in the periodic review schedule as set forth in OAR 660-19-045, the local government shall submit four (4) copies of its proposed

local review order to the Director. The local government must also provide notice of proposed plan and land use regulation amendments on forms provided by the Department. Procedures and requirements for such notice are contained in OAR 660, Division 18. Joint submittals must be processed according to requirements of OAR 660-18-021.

(5) As part of its submittal, the local government shall notify the Director of the date of the final local hearing on the proposed local review order. The date of this hearing shall be at least 90 but not longer than 120 days after the date the proposed review order is submitted to the Director unless the Director specifically grants a longer period upon written request of the local government. The final hearing may be continued or extended by local government for a period of up to six months in order to adequately consider and accommodate suggestions made prior to or at the final hearing. All commenters or objectors and the Department shall be notified of continued for more than 30 days hearings. Extensions beyond the six months allowed by this provision will be granted by the Director only if the extension meets requirement of OAR 660-19-045.

(6) The local government's proposed local review order submitted to the Director shall contain either:

(a) Proposed findings that none of the periodic review factors apply; or

(b) Proposed findings that one or more of the periodic review factors apply. When the factors apply, local governments

must send proposed amendments to the plan or land use regulations that are necessary to continue to maintain its compliance with the goals and coordination with state agency plans and programs.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 9-1982, f. & ef. 10-20-82; LCDC 7-1984, f. & ef. 11-30-84; Renumbered from 660-19-010

Director Notice of Proposed Local Review Order

660-19-065 (1) Upon receipt of the local government's proposed local review order or notice received pursuant to OAR 660-19-095(3), the Director within 20 days shall mail or otherwise submit notice to persons who have requested notice pursuant to OAR 660-19-100(1) that the jurisdiction's proposed local review order is pending, of their opportunity to participate in the local government's proceedings, and of the times and places where the jurisdiction's proposed order and accompanying documents may be reviewed.

(2) Not later than fifteen (15) days before the local government's final hearing on the proposed local review order, the Director shall notify the local government in writing of:

(a) Any concerns the Director has about the adequacy of the proposed local order's compliance with the periodic review factors; and

(b) Any advisory recommendations the Director considers to be needed to properly address its concerns identified in subsection (2)(a) of this rule;

(c) The Director may also provide other suggestions to

improve the quality or organization of the local plan and land use regulations.

(3) At any time before the local government adopts its final local review order described in OAR 660-19-070, it may submit to the Director a revised proposed review order as provided in OAR 660-19-060. The new proposed local review order shall supersede the previous proposed local order and shall be subject to all the requirements of OAR Chapter 660, Division 19. No more than two revised orders may be submitted without first seeking a schedule change as required by OAR 660-19-045.

Stat. Auth.: ORS Ch. 197
Hist.: LCDC 7-1984, f. & ef. 11-30-84

Adoption of Final Local Review Order

660-19-070 (1) Following the final hearing on the proposed review order, the local government shall adopt a final local review order. The local government shall mail or otherwise submit to the Director four (4) copies of the material required by OAR 660-19-070(2) not later than twenty (20) days after the final decision by the local governing body.

(2) The Department shall review the final order and supplementary material within ten (10) days to determine whether it is complete. In order to be deemed complete, the submittal shall contain:

(a) A cover letter indicating the nature of the submittal and requesting review.

(b) The final order of the local government;

(c) Plan and land use regulation amendments referenced in the final order;

(d) Supplemental materials referenced in the final order;
and

(e) Evidence of adoption of the final order and plan or land use regulation amendments referenced in the final order.

(3) Based on the completeness check, the Director shall either:

(a) Determine the submittal is incomplete and notify the local government in writing of missing materials; or

(b) Determine the submittal is complete and issue notice required by OAR 660-19-075.

(4) For purposes of this rule, a submittal which is incomplete is considered as not submitted.

(5) The local government shall specify in its submittal to the Director the changes that have been made in those cases where there have been substantial amendments between the proposed local review order and the final local review order.

(6) The local government shall also provide, not later than twenty (20) days after the final decision, notice to persons who participated orally or in writing in the proceedings leading to adoption of the final local review order and who had requested the local government in writing that they receive such notice. The notice provided to persons requesting notice shall:

(a) Briefly describe the action taken by local government;

(b) Indicate the date of the decision;

(c) State the location and time when the final local review order, findings, and text may be reviewed; and

(d) Explain the requirements for submittal of written objections to the Director as described in OAR 660-19-080.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 7-1984, f. & ef. 11-30-84

Director Notice of Final Local Review Order

660-19-075 (1) Not later than ten (10) days after receipt of a complete local review order, the Director shall provide notice to any persons who have requested notice pursuant to OAR 660-19-100(2).

(2) The notice shall explain the requirements for the submittal of written objections, the date by which objections must be received by the Director and local government, and the locations where the final local review order, findings, and text may be reviewed.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 7-1984, f. & ef. 11-30-84

Objections to Final Local Review Order

660-19-080 (1) Except as provided in section (2) of this rule, only those persons who participated orally or in writing in the local government proceedings leading to the adoption of the final local review order may file an objection with the Director and the local government.

(2) Any person may file an objection to the final local

review order if it has been substantially amended from the proposed local review order so that the proposed order received under OAR 660-19-060(4) did not reasonably describe the local government's final decision.

(3) An objection filed against a final local review order shall:

(a) Be in writing;

(b) Be mailed or otherwise submitted to the Director and the local government not later than thirty 30 days from the receipt of a complete final order by the Department;

(c) Be limited to those issues raised by the objector in the proceedings before the local government unless the final local review order has been substantially amended from the proposed local review order so that the proposed order received under OAR 660-19-060(4) did not describe the nature of the local government's final decision; and

(d) Specify the alleged grounds upon which the final local review order does not meet the periodic review factors pursuant to OAR 660-19-055 through 057.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 7-1984, f. & ef. 11-30-84

Director Review of Final Local Review Order

660-19-085 (1) Not later than 60 days after receipt of the final local review order, unless extenuating circumstances exist, the Director shall review the local government's final order including any objections received pursuant to OAR 660-19-080 and

complete either subsection (a) or (b) of this section:

(a) Issue a Director termination order based on findings that the jurisdiction has met the requirements of the periodic review factors including the items in the periodic review notice under OAR 660-19-050 or that the factors do not apply; or

(b) Submit to the Commission a report which addresses the requirements of the periodic review factors, the local governments final review order and any objections filed with the Director. The Director shall recommend to the Commission either approval of the local government's final local review order or issuance of an order requiring amendments to the plan or land use regulations and shall give reasons therefore.

(2) The Director shall notify in writing the local government and any objectors of the decision under subsection (1)(a) or (b) of this rule and shall give reasons therefore.

(3) An objector may file an appeal to the Commission of the Director's decision to issue a Director termination order. Objections to the Director's decision must be filed with the Director not later than 30 days of the mailing of the Director's action. In response to an appeal of the termination order, the Director shall prepare and submit a report to the Commission in the same manner as provided under subsection (1)(b) of this rule.

(4) Notwithstanding other provisions of this division, following submittal of a final order, the local government may make revisions to the order, findings, plan, land use regulations

or other documents. The local government shall provide the Director, objectors and other participants with at least 20 days' advance notice of its hearing on proposed changes. The notice shall include the text of the proposed revisions or amendments. This notice shall also supersede notice requirements of ORS 197.610. Where such notice is given, the Director need not give any additional notice following submittal of the changed provisions. Submittal shall also include notice required by ORS 197.615. The Director shall revise the report prepared under section (1) of this rule to reflect the revised local order, plan, regulations or other documents.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 7-1984, f. & ef. 11-30-84

Commission Review of Director's Review Report

660-19-090 (1) Unless extenuating circumstances exist or a different time is stipulated by all the parties, the Commission shall issue a final order within 60 days following submittal of a report filed either under OAR 660-19-085(1)(b), 660-19-085(3), or 660-19-095(4).

(2) Upon completion of the Director's report, the Director shall mail a copy of the report to the local government and all persons who submitted objections at least 20 days before the Commission meeting at which review of the Director's report and the jurisdiction's final local review order are to be considered. As part of the mailing of this report, the Director shall inform the local government and the objectors of the date and location

of the Commission meeting and the final date to file written exceptions to the report and to the objections. Exceptions to the report and to the objections shall be submitted to the Director not later than 10 days after the mailing of the Director's report.

(3) The Commission shall provide for oral argument from the Director, the local government, and objectors in the conduct of its review of the Director's report and the final local review order.

(4) The Commission's record for the review of the Director's report and the final local review order shall consist of:

(a) Any objections filed with the Director pursuant to OAR 660-19-080;

(b) The local government's final local review order, including findings, text of any amendments or new regulations, and other materials submitted by the local government;

(c) The acknowledged comprehensive plan and land use regulations of the local government; and

(d) The Director's report, the written exceptions filed to the Director's report, and the oral arguments;

(5) Following its review, the Commission shall adopt a Commission review order which either:

(a) Sustains the local government's final local review order and finds that it has adequately addressed the applicable periodic review factors and therefore remains in compliance with

the goals and coordinated with state agency plans and programs;
or

(b) Requires the local government to amend its acknowledged comprehensive plan and land use regulations to respond to requirements of the periodic review factors in order to remain in compliance with the goals and coordinated with state agency plans and programs.

(6) An order issued by the Commission pursuant to OAR 660-19-090(5)(b) shall specify a reasonable length of time for the local government to complete its plan and land use regulation amendments to comply with the Commission's order.

(7) The Director shall notify the Real Estate Division, the local government, and all persons who filed comments or objections to the Director's report and the jurisdiction's final review order.

(8) Appeal of the Commission's order under section (5) of this rule shall follow the procedure established by ORS 197.650(1)(b).

(9) Plan and land use regulation amendments completed in response to a Commission order pursuant to subsection (5)(b) of this rule shall be submitted for review and approval in the same manner as provided in OAR 660-19-07 or 660-19-085(4).

(10) Following issuance of the commission's order, subsequent reviews of local government actions pursuant to the order shall be limited to whether revisions meet the requirements of the commission's order. New objections may be raised only

when required amendments affect other periodic review issues, which could not have been raised previously.

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 7-1984, f. & ef. 11-30-84

Expedited Periodic Review Procedure

660-19-095 (1) Local governments who satisfy one or more of the following are eligible for the expedited periodic review procedure. The expedited review process applies to:

- (a) Cities with a population under 2,500 within the urban growth boundary;
- (b) Counties with a total population under 5,000; and
- (c) Counties within which there are no cities with a population over 2,500 within the urban growth boundary.

(2) The Director shall utilize current census information including information from the Center for Population Research at Portland State University and consult as necessary with the applicable jurisdictions in identifying the affected local governments eligible for the expedited procedure. In case of conflicts over population figures, the Director's decision will be final.

(3) In response to its periodic review notice, a local government classified by the Director to be eligible for expedited review has three choices.

(a) The first choice is to submit a letter requesting delay in periodic review to the next review cycle. The letter must explain that substantial changes in circumstances have not

occurred and therefore the plan continues to provide adequate guidance for land use decisions until the next review cycle; and what steps have been or will be taken to assure the plan is consistent with new or amended statutes, Statewide Planning Goals or administrative rules adopted since acknowledgment.

(b) The second choice is to submit a copy of its plan and land use regulations for DLCD review without a local periodic review order. DLCD would then have up to one year to conduct its review and inform the local government of any changes needed to meet periodic review requirements. As part of this review, the Director may determine that no periodic review is required as outlined under subsection (a) of this section and reschedule the review for the next cycle of periodic reviews; or

(c) The third choice is to follow the complete periodic review process as if the jurisdiction did not qualify for expedited review.

(4) Under subsections (3)(a) and (b) above, notice of the initial submittal or request will be given as if the submittal were a final order pursuant to ORS 197.641(3). Persons who receive notice under this provision have thirty (30) days to submit objections to DLCD. Following review of the submittal or request and objections, the Director will issue a report and determination, including requirements which the local government must meet to qualify for a delay to the next review cycle. The local government and any objectors then have an opportunity to appeal DLCD's report to the Commission pursuant to

OAR 660-19-085(3) and 660-19-090. Required changes must be submitted pursuant to requirements of OAR 660-19-085.

(5) The Director's decision on periodic review for expedited review jurisdictions shall be based on the following criteria:

(a) Whether substantial changes in circumstances exist that result in an inadequate planning framework for decision making until the next scheduled periodic review;

(b) Whether the plan and land use regulations are or will be made consistent with current state statutes, Statewide Planning Goals and LCDC administrative rules.

(6) Appeals of the Director's decision, in section (4) shall be based on criteria outlined in section (5).

Stat. Auth.: ORS Ch. 197

Hist.: LCDC 7-1984, f. & ef. 11-30-84

Codified Plan

660-19-097 (1) Based on ORS 197.260, 197.190 and the legislative policy described in ORS 197.010, each local government shall file three complete and accurate copies of its comprehensive plan and land use regulations bearing the date of adoption (including plan and zone maps bearing the date of adoption) with the Department following completion of periodic review. These materials may be either a new printing or an up-to-date compilation of the required materials.

(2) These materials must be submitted to the Department within six months of completion of periodic review.

(3) The codified materials shall be accompanied by a

statement signed by the planning director or other city or county official certifying that the materials are an accurate copy of current planning documents and that they reflect changes made as part of periodic review.

Stat. Auth.:
Hist.:

Fee for Notice

660-19-100 (1) An annual fee of \$50 to defray the costs of notice provided under OAR 660-19-065 is established. The fee shall be assessed for each fiscal year, or fraction thereof, commencing July 1, 1985. The fee is payable in advance of any notice being provided under OAR 660-19-065. For each subsequent fiscal year, the Director shall bill persons requesting such notice the annual fee each July. Persons failing to remit the fee within 30 days of the date of the invoice shall be deemed as having terminated the request for notice provided under OAR 660-19-065.

(2) An annual fee of \$50 to defray the costs of notice provided under OAR 660-19-075 is established. The fee shall be assessed for each fiscal year, or fraction thereof, commencing July 1, 1985. The fee is payable in advance of any notice being provided under OAR 660-19-075. For each subsequent fiscal year, the Director shall bill persons requesting such notice the annual fee each July. Persons failing to remit the fee within 30 days of the date of the invoice shall be deemed as having terminated the request for notice provided under OAR 660-19-075.

Stat. Auth.: ORS Ch. 197
Hist.: LCDC 7-1984, f. & ef. 11-30-84

Computation of Time

660-19-105 (1) For the purposes of this Division the time to complete required tasks shall be computed as follows. The first day of the designated period to complete the task shall not be counted. The last day of the period shall be counted unless it is a Saturday, Sunday or legal holiday recognized by the State of Oregon. In that event the period shall run until the end of the next day which is not a Saturday, Sunday or state legal holiday.

(2) When the period of time to complete the task is less than seven (7) days, intervening Saturdays, Sundays or state legal holidays shall not be counted.

Stat. Auth.: ORS Ch. 197
Hist.: LCDC 7-1984, f. & ef. 11-30-84

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